

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4)
5 MUR 7352)
6 Gillibrand for Senate and Keith Lowey in his) CASE CLOSURE UNDER THE
7 official capacity as treasurer,) ENFORCEMENT PRIORITY
8 Senator Kirsten Gillibrand,) SYSTEM
9 Hedley May L.P., and)
10 Regina Glocker)
11)

12
13 **GENERAL COUNSEL'S REPORT**

14 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a
15 basis to allocate its resources and decide which matters to pursue. These criteria include, without
16 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking
17 into account both the type of activity and the amount in violation; (2) the apparent impact the
18 alleged violation may have had on the electoral process; (3) the complexity of the legal issues
19 raised in the matter; and (4) recent trends in potential violations of the Federal Election
20 Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the
21 Commission's policy that pursuing relatively low-rated matters on the Enforcement docket
22 warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances
23 or to find no reason to believe that a violation occurred.

24 The Office of General Counsel has scored MUR 7352 as a low-rated matter and has
25 determined that it should not be referred to the Alternative Dispute Resolution Office.¹ For the
26 reasons set forth below, we recommend that the Commission find no reason to believe the
27 allegation that Gillibrand for Senate and Keith Lowey in his official capacity as treasurer ("the

¹ The EPS rating information is as follows: Complaint Filed: March 27, 2018. Glocker Response Filed: May 15, 2018. Hedley May L.P. Response Filed: May 29, 2018. Gillibrand and Gillibrand for Senate Response Filed: June 11, 2018.

1 Committee”),² Senator Kirsten Gillibrand, Hedley May L.P., and Regina Glocker violated 52
2 U.S.C. § 30118(a) or 11 C.F.R. § 114.2(b).

3 Based on a March 10, 2018, news article, the Complaint alleges that Hedley May L.P.
4 made a prohibited corporate contribution to the Committee. Specifically, complainant alleges
5 that Regina Glocker of Hedley May L.P. used corporate resources to conduct opposition
6 research for Kristen Gillibrand and the Committee, and that Hedley May was not compensated
7 for the research.³ Glocker denies that she conducted any opposition research,⁴ Hedley May L.P.
8 denies that any corporate resources were used to provide services to Gillibrand or the
9 Committee,⁵ and Gillibrand and the Committee deny that they engaged or received any
10 opposition research from any person, including Glocker and Hedley May L.P.⁶

11 The Act and Commission regulations prohibit a candidate's principal campaign
12 committee from accepting corporate contributions, and prohibit a corporation from making a
13 contribution to a candidate's principal campaign committee.⁷ The provision of any goods or
14 services without charge or at a charge that is less than the usual and normal charge for such
15 goods or services is an in-kind contribution.⁸

² Kirsten Gillibrand is a United States Senator from New York. Gillibrand for Senate is her principal campaign committee.

³ Comp. at 1 (Mar. 27, 2018); *see also* Emily Smith, *How Kirsten Gillibrand is getting 'dirt' on her GOP opponent*, NEW YORK POST, Mar. 10, 2018, available at <https://pagesix.com/2018/03/10/how-kirsten-gilibrand-is-getting-dirt-on-her-gop-opponent/> (last visited June 14, 2018).

⁴ Glocker Resp. at 2 (May 18, 2018); *see also Id.* Ex. 1, Gale Kroeger Aff. at ¶ 4.

⁵ Hedley May L.P. Resp. at 1 (May 29, 2018).

⁶ Committee Resp. at 2 (Jun. 11, 2018).

⁷ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

⁸ 11 C.F.R. § 100.52(d).

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

1
2
3 RESPONDENTS: Gillibrand for Senate and MUR 7352
4 Keith Lowey in his official capacity as treasurer,
5 Senator Kirsten Gillibrand,
6 Hedley May L.P., and
7 Regina Glocker
8

9 This matter was generated by a complaint alleging violations of the Federal Election
10 Campaign Act of 1971, as amended (“the Act”) and Commission regulations by Gillibrand for
11 Senate and Keith Lowey in his official capacity as treasurer (“the Committee”)¹, Senator Kirsten
12 Gillibrand, Hedley May L.P., and Regina Glocker. It was scored as a low-rated matter under the
13 Enforcement Priority System, by which the Commission uses formal scoring criteria as a basis to
14 allocate its resources and decide which matters to pursue.

15 Based on a March 10, 2018, news article, the Complaint alleges that Hedley May L.P.
16 made a prohibited corporate contribution to the Committee. Specifically, complainant alleges
17 that Regina Glocker of Hedley May L.P. used corporate resources to conduct opposition
18 research for Kristen Gillibrand and the Committee, and that Hedley May was not compensated
19 for the research.² Glocker denies that she conducted any opposition research,³ Hedley May L.P.
20 denies that any corporate resources were used to provide services to Gillibrand or the

¹ Kirsten Gillibrand is a United States Senator from New York. Gillibrand for Senate is her principal campaign committee.

² Comp. at 1 (Mar. 27, 2018); see also Emily Smith, *How Kirsten Gillibrand is getting 'dirt' on her GOP opponent*, NEW YORK POST, Mar. 10, 2018, available at <https://pagesix.com/2018/03/10/how-kirsten-gilibrand-is-getting-dirt-on-her-gop-opponent/> (last visited June 14, 2018).

³ Glocker Resp. at 2 (May 18, 2018); see also *Id.* Ex. 1, Gale Kroeger Aff. at ¶ 4.

1 Committee,⁴ and Gillibrand and the Committee deny that they engaged or received any
2 opposition research from any person, including Glocker and Hedley May L.P.⁵

3 The Act and Commission regulations prohibit a candidate's principal campaign
4 committee from accepting corporate contributions, and prohibit a corporation from making a
5 contribution to a candidate's principal campaign committee.⁶ The provision of any goods or
6 services without charge or at a charge that is less than the usual and normal charge for such
7 goods or services is an in-kind contribution.⁷

8 There is no information available to suggest that Glocker or Hedley May L.P. provided
9 opposition research to Gillibrand or the Committee. The allegation is speculative and
10 Respondents have denied the allegation, including in a sworn affidavit from the Chief Financial
11 Officer of Hedley May L.P. Therefore, the Commission finds no reason to believe that
12 Gillibrand for Senate and Keith Lowey in his official capacity as treasurer, Senator Kirsten
13 Gillibrand, Hedley May L.P., or Regina Glocker violated 52 U.S.C. § 30118(a) or 11 C.F.R. §
14 114.2(b).

⁴ Hedley May L.P. Resp. at 1 (May 29, 2018).

⁵ Committee Resp. at 2 (Jun. 11, 2018).

⁶ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

⁷ 11 C.F.R. § 100.52(d).